

Appl. No. 10/593,155  
Reply to Office Action of December 26, 2008  
Attorney Docket No. 27551U

**Amendments to the Drawings**

The attached sheet of drawings includes changes to Fig. 1. This sheet replaces the original drawings of Figs. 1 and 2. A replacement sheet and an annotated sheet showing changes appear in an appendix, which begins on the last page of this paper.

## REMARKS/ARGUMENTS

Claims 1 – 11 are presented for reconsideration and further examination in view of the foregoing amendments and following remarks. The Applicants do not intend for any subject matter of this application to be dedicated to the public.

In the outstanding Office Action, the drawings were objected to for failing to correctly indicate a plurality of pocket folds as described in the specification and for including reference numbers not mentioned in the description; claims 2 – 10 are objected to due to informalities; claims 6, 8, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite; claims 1 – 4 and 8 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,656,353 to Butler (hereinafter referred to as “the Butler ‘353 patent”) taken in view of the evidence given in [AZDEL, Inc.] of AZMET product descriptions (hereinafter referred to as “the AZMET descriptions”); claim 5 is rejected under 35 U.S.C. 103(a) as being obvious over the Butler ‘353 patent; claim 6 is rejected under 35 U.S.C. 103(a) as being obvious over the Butler ‘353 patent in view of U.S. Patent No. 6,401,961 to Butler (hereinafter referred to as “the Butler ‘961 patent”); and claim 7 is rejected under 35 U.S.C. 103(a) as being obvious over the Butler ‘353 patent in view of U.S. Patent No. 4,810,321 to Wank et al. (hereinafter referred to as “the Wank et al. ‘321 patent”) and in further view of U.S. Patent No. 5,883,172 to Heucher et al. (hereinafter referred to as “the Heucher et al. ‘172 patent”).

By this Response and Amendment, the claim informalities have been corrected, claims 1 – 10 have been amended and claim 11 is newly added. The claim amendments are based at least on page 5, lines 31 – 34 and on page 6, lines 7 through 27 of the originally filed specification. Therefore, it is respectfully submitted that the above amendments do not introduce any new matter to this application within the meaning of 35 U.S.C. §132.

### **Drawing Objections**

The drawings were objected to for failing to correctly indicate a plurality of pocket folds as described in the specification and for including reference number 5, which was not mentioned in the description and for an informality with respect to element number 4 in claim 1. By this Response and Amendment, the drawing objections have been obviated by an specification amendment adding element number 5 to the specification and by a drawing amendment to figure 1. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the objections to the drawings.

### **Claim Objections**

Claims 2 – 10 were objected to due to informalities. By this Response and Amendment, claims 2 – 10 have been amended to correct the noted informalities. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections.

### **Rejections Under 35 U.S.C. §112**

Claims 6, 8, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. By this Response and Amendment, the term “sector” recited in claim 6 has been amended to recite a “radius,” which is supported by page 6, lines 1 – 5 and figures 1 and 2 of the originally filed specification. Claims 8 and 9 have been amended to recite a “bond” having a peeling resistance  $W_s$ . Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

**Rejection Under 35 U.S.C. §102(b)**

Claims 1 – 4 and 8 – 10 are rejected as being anticipated by the Butler ‘353 patent taken in view of the evidence given in the AZMET descriptions. Applicants traverse the rejection since all of the features of the presently claimed subject matter are not disclosed, taught or suggested by the cited prior art. For a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Impax Laboratories Aventis v. Pharmaceuticals*, 468 F.3d 1366, 1381 (Fed. Cir. 2006).

Independent claim 1 recites a “[h]eat-protected thermoplastic component having a carrier layer made of a thermoplastic synthetic and an unperforated metallic foil at least partially connected to said carrier layer, wherein said unperforated foil comprises a plurality of folding pockets, which are partially compressed, turned-over or folded and therefore form unperforated folding pockets, which are embedded in the carrier layer such that a mechanical anchoring is obtained between said folding pockets and the carrier layer.”

The Butler ‘353 patent discloses an automotive vehicle heat shield that is formed from a laminated sheet material having a perforated reflective metallic layer laminated to a structural plastic layer. Flashing from the perforations forms mounting brackets, which are embedded into the plastic layer through a compression molding process to bond the two layers together forming the laminated sheet material. The AZMET description is a material description for possible thermoplastic types.

In contrast to the presently claimed subject matter, the prior art does not disclose, teach or suggest an “unperforated metallic foil..., wherein said unperforated foil comprises... unperforated folding pockets, which are embedded in the carrier layer such that a mechanical anchoring is obtained between said folding pockets and the carrier layer” as recited in claim 1. The Butler ‘353

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patent actually teaches away from an unperforated metallic foil in that its prongs 24 are partially formed as a result of a piercing operation that forms perforations 24. *See Butler* '353 at col. 2, lines 32 – 41. None of the references discloses, teaches or suggests the unperforated foil or unperforated folding pockets as recited in the amended independent claim 1. As such, the Butler '353 patent does not disclose, teach or suggest all of the features of the presently claimed subject matter. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the outstanding rejections.

#### **Rejections Under 35 U.S.C. §103(a)**

Claim 5 is rejected as being obvious over the Butler '353 patent; claim 6 is rejected as being obvious over the Butler '353 patent in view of the Butler '961 patent; and claim 7 is rejected as being obvious over the Butler '353 patent in view of the Wank et al. '321 patent and in further view of the Heucher et al. '172 patent.

Applicants respectfully traverse the rejection since all of the features of the presently claimed invention are not disclosed, taught or suggested by the cited prior art references. To establish a *prima facie* case of obviousness, the Examiner must establish that the prior art references teach or suggest all of the claim features. *Amgen, Inc. v. Chugai Pharm. Co.*, 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970).

The arguments above with respect to the primary references are incorporated in this section. The additional prior art references mentioned are only disclosing a possible hot melt connection material or a material composition, not recited in amended claim 1.

The Butler '961 patent discloses a blow molded fuel tank that has a heat shield. The heat

shield is joined to the fuel container. The fit between the heat shield and the fuel container is accomplished through the use of claw-like protrusions of the heat shield.

The Wank et al. '3212 patent discloses preparation of metal-plastic laminates that are prepared by coating a metal component with a polyurethane adhesion promoter in dissolved or dispersed form, drying the liquid phase and coating with the melt of a thermoplastic by the extrusion coating process.

The Heucher et al. '172 patent discloses a polyamide hotmelt adhesive for bonding metals to plastics. The adhesive is based on dimerized fatty acid and has an amine value higher by at least two units than the acid value of the polyamide and a filler comprised of a carbonate. The filler consists of fine particles of calcium carbonate.

In contrast to the presently claimed subject matter, the prior art does not disclose, teach or suggest "unperforated metallic foil..., wherein said unperforated foil comprises... unperforated folding pockets, which are embedded in the carrier layer such that a mechanical anchoring is obtained between said folding pockets and the carrier layer" as recited in claim 1. Both Butler references disclose connections that are similar to each other. However, none of the references disclose, teach or suggest the pockets or knobs that are recited in presently amended independent claim 1. As such, none of the cited references disclose, teach or suggest all of the features of the presently claimed subject matter. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the outstanding rejections.

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#### **MISCELLANEOUS**

Applicant submits that newly added dependent claim 11 is patentable over the cited prior art for at least the reason that it ultimately depends from claim 1, which has been shown above to be patentable over the cited prior art.

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## CONCLUSION

In light of the foregoing, Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

**THE NATH LAW GROUP**

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## APPENDIX

Annotated Sheet Showing Changes

